TITLE 86: REVENUE

PART 100
INCOME TAX

Section 100.2480 Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))

a) Taxpayers are entitled to subtract from taxable income (adjusted gross income, in the case of an individual) an amount equal to dividends paid by a corporation which conducts business operations in an Enterprise Zone or zones created under the Illinois Enterprise Zone Act, and conducts all or substantially all of its operations in the Enterprise Zone or zones (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K)).

b) A corporation conducts substantially all of its business within an Enterprise Zone when 95% or more of its total business activity during a taxable year is operated within an Enterprise Zone. For the purpose of this Section, business activity within an Enterprise Zone shall be measured by means of the factors ordinarily applicable to the corporation under subsection (a), (b), (c), or (d) of IITA Section 304 except that, in the case of a corporation ordinarily required to apportion business income under subsection (a) of Section 304, such corporation shall not use the sales factor in the computation. Thus, for example, for taxable years ending on or after December 31, 2000, for purposes of determining whether dividends may be subtracted under this Section, a corporation that apportions its business income under subsection (a) of Section 304 using only the sales factor in accordance with subsection (h) of Section 304 must still compute its property and payroll factors. In measuring the business activity of a corporation within an Enterprise Zone, the apportionment factors of that corporation shall be determined without regard to the factors or business activity of any other corporation and, in the case of a corporation engaged in a unitary business with any other person, the apportionment factors of that corporation shall be determined as if it were not engaged in a unitary business with such other person.

1) Section 304(a) Corporations: A corporation using Section 304(a) to apportion business income to Illinois shall compare the corporation's property and payroll within an Enterprise Zone to the corporation's property and payroll everywhere. The result of the property and payroll factor computations shall be divided by 2 (by one if either the property or payroll factor has a denominator of zero). If the amount so computed is 95% or greater, the dividends paid by the corporation shall qualify for this subtraction. In the case where a corporation does not have any payroll or property within an Enterprise Zone, the corporation is not

conducting any of its business operations within an Enterprise Zone for the purpose of this Section.

2) All Other Corporations: A corporation using a 1-factor apportionment formula under subsection (b), (c) or (d) of IITA Section 304 shall determine business activity conducted within an Enterprise Zone by comparing business income from sources within the Enterprise Zone and everywhere else pursuant to its ordinarily applicable factor under subsection (b), (c) or (d) of Section 304. A corporation using an alternative method of apportionment under Section 304(f) shall petition the Department for approval of an appropriate method of determining its qualification under this Section, and only upon the Department's approval shall the corporation be allowed to use a method not provided in this Section.

3) Example: In the tax year ending December 31, 1995, Taxpayer received dividends from a bank holding company, whose sole asset was the stock in a bank with which it was conducting a unitary business. Both the bank holding company and the bank are headquartered in an Enterprise Zone created under the Illinois Enterprise Zone Act. During 1995, the operations of the bank consisted of accepting deposits, making loans and purchasing investments. The bank conducted business in its branches located throughout the State. However, the bank holding company's sole source of income on a separate-company basis was the dividends it received from the bank, and all of this income was received within the Enterprise Zone. In determining its business income apportionable to Illinois in 1995, the bank holding company and the bank used the apportionment formula under IITA Section 304(c) on a combined basis. In order to determine whether 95% or more of its income is from sources within the Enterprise Zone, the bank holding company is required to use the same apportionment formula under IITA Section 304(c) as if it were not engaged in a unitary business with the bank. Pursuant to the formula, dividends which are received within this State are apportionable to Illinois. As a result, the bank holding company in this case must compute the percentage of dividends which are received within the Enterprise Zone to determine income apportionable to the Enterprise Zone. Since it received all of its business income from sources within the Enterprise Zone, the bank holding company would meet the 95% test.

c) Taxpayers are entitled to this subtraction in the taxable year in which qualifying dividends are paid by corporations. Corporations paying dividends shall be deemed to have started business operations within an Enterprise Zone from the later of:

1) The date the Enterprise Zone in which the corporation paying the dividends is located was officially designated by the Department of Commerce and Community Affairs;

2) The date the corporation paying dividends commenced operations in the Enterprise Zone; or

3) The effective date of the Public Act enacting this subtraction (December 7, 1982).

d) Limitations.

1) This Section allows taxpayers to subtract distributions from a corporation only to the extent:

A) such distributions are characterized as dividends;

B) such dividends are included in federal taxable income (in the case of an individual, adjusted gross income) of the taxpayer; and

C) the taxpayer has not subtracted such dividends from federal taxable income (in the case of an individual, adjusted gross income) under any other provision of Section 203 of the IITA.

2) Example: Taxpayer, an S corporation shareholder, receives a distribution from an S corporation which conducts substantially all of its business in an Enterprise Zone. Although the S corporation satisfies the 95% test, Taxpayer is not entitled to this subtraction modification since a distribution by an S corporation is generally not characterized as a dividend. See Section 1368 of the Internal Revenue Code.

3) Example: Taxpayer, a corporation, receives a dividend from another corporation which qualifies for the 70% dividends received deduction under Section 243(a)(1) of the Internal Revenue Code. Because only 30% of the dividend is included in Taxpayer's federal taxable income, this Section allows Taxpayer to subtract only 30% of the dividend from its federal taxable income.

(Source: Amended at 26 Ill. Reg. 17250, effective November 18, 2002)